



FEDERAL ELECTION COMMISSION

11 CFR Part 113

[NOTICE 2020-05]

Rulemaking Petition: Transfers from Candidate's Authorized Committee

AGENCY: Federal Election Commission.

ACTION: Rulemaking Petition: Notification of Availability.

SUMMARY: On April 8, 2020, the Federal Election Commission received a Petition for Rulemaking asking the Commission to amend its regulations to limit the amount that the authorized committee of a federal candidate may transfer to a national political party committee. The Petition proposes to limit these transfers so that a self-funded candidate cannot transfer funds derived from the candidate's personal funds to a national political party committee if the transferred funds would exceed the annual limit on an individual's contributions to a national party committee. The Commission seeks comment on the Petition.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: All comments must be in writing. Commenters may submit comments electronically via the Commission's website at <http://sers.fec.gov/fosers/>, reference REG 2020-02.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website. Accordingly, commenters should not provide in

their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Knop, Assistant General Counsel, or Ms. Heather Filemyr, Attorney, Office of the General Counsel, at CommitteeTransfers@fec.gov.

SUPPLEMENTARY INFORMATION: On April 8, 2020, the Commission received a Petition for Rulemaking from Citizens United and Citizens United Foundation ("Petition"). The Petition asks the Commission to amend 11 CFR 113.2(c) "to limit the amounts that an authorized committee of a federal candidate may transfer to a committee of a national political party in order to prevent a self-funded candidate from transferring campaign funds derived from his or her personal funds in amounts that exceed the annual limits imposed on an individual's contributions to a national party committee." Petition at 1.

The Petition involves several statutory and regulatory provisions. The Federal Election Campaign Act, 52 U.S.C. 30101-45 ("FECA"), provides that a "contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual . . . for transfers, without limitation, to a national, State, or local committee of a political party." 52 U.S.C. 30114(a)(4). Similarly, Commission regulations state: "funds in a campaign account . . . [m]ay be transferred without limitation to any national,

State, or local committee of any political party.” 11 CFR 113.2(c). In addition, generally “candidates for Federal office may make unlimited expenditures from personal funds” and so may contribute unlimited amounts from personal funds to their authorized committees.¹ 11 CFR 110.10.

The Petition asserts that in March 2020 “a major loophole came to light” in how unlimited transfers from candidates’ authorized committees to party committees interact with the allowance for candidates to contribute unlimited personal funds to their campaigns. Petition at 2. Citing a news report, the Petition states that Michael Bloomberg, recently a candidate for president, transferred 18 million dollars from his authorized committee to the Democratic National Committee (“DNC”) at the conclusion of his campaign and that the transferred funds “derived from the candidate’s personal funds, which are not subject to any contribution limits.” *Id.* The Petition further states that the reported 18 million dollar transfer from Mr. Bloomberg’s campaign account “is more than 500 times greater than the amount that he could directly contribute to the DNC.” *Id.* at 3. Further, the Petition claims that under the Commission’s current regulations, “[w]ealthy individuals could: declare their candidacy for any federal elected office; contribute untold millions of dollars of his or her own money to the campaign; promptly withdraw his or her candidacy after spending a token sum; and thereafter transfer the balance of the campaign’s funds to the national party committee of his or her choice.” *Id.* According to the Petition, “[t]his is clearly not what was intended when Congress authorized the transfer surplus campaign funds to national party committees.” *Id.* To address this possibility, the Petition proposes that the Commission revise 11 CFR

¹ Certain limitations apply to presidential candidates receiving funds from the Presidential Election Campaign Fund or the Presidential Primary Matching Payment Account. *See* 11 CFR 110.10.

113.2(c) to “limit the amount that a campaign committee can transfer to a national political party committee to the sum total of contributions received by the committee that” are subject to FECA’s amount limitations “on contributions by individuals, multi-candidate PACs and party committees.” *Id.*

The Commission seeks comment on the Petition. The public may inspect the Petition on the Commission’s website at <http://sers.fec.gov/fosers/>.

The Commission will not consider the Petition’s merits until after the comment period closes. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the *Federal Register*.

Dated: June 18, 2020

On behalf of the Commission,

Steven T. Walther,

Vice Chairman,

Federal Election Commission

BILLING CODE: 6715-01-P

[FR Doc. 2020-13573 Filed: 6/29/2020 8:45 am; Publication Date: 6/30/2020]